

1 **COLT B. DODRILL, ESQ.**
2 Nevada Bar No. 9000
3 **SARAH A. GASKILL, ESQ.**
4 Nevada Bar No. 8461
5 **WOLFE & WYMAN LLP**
6 **980 Kelly Johnson Drive, Suite 140**
7 **Las Vegas, NV 89119**
8 **sagaskill@wolfewyman.com**
9 **Tel: (702) 476-0100**
10 **Fax: (702) 476-0101**
11 Attorneys for Defendants,
12 **CITIMORTGAGE, INC and**
13 **MORTGAGE ELECTRONIC**
14 **REGISTRATION SYSTEMS, INC.**

15
16 **UNITED STATES DISTRICT COURT**
17 **FOR THE DISTRICT OF NEVADA**

18 AARON P. BROOKS AND ALISA R. BROOKS,

19 Case No. 2:11-cv-00531-GMN -RJJ

20 Plaintiffs,
21 v.
22 LEHMAN BROTHERS HOLDINGS INC.,
23 AXIOM FINANCIAL INCORPORATED,
24 AURORA LOAN SERVICES,
25 CITIMORTGAGE INC., MORTGAGE
26 ELECTRONIC REGISTRATION SYSTEMS,
27 JOHN DOES I and II, and JOHN DOES 3
through 10, inclusive,

28 **ORDER GRANTING MOTION TO**
DISMISS FILED BY CITIMORTGAGE,
INC. AND MORTGAGE ELECTRONIC
REGISTRATION SYSTEMS, INC.

29 Defendants.

30
31 Defendants, CITIMORTGAGE, INC.(hereinafter, "CMI") and MORTGAGE ELECTRONIC
32 REGISTRATION SYSTEMS, INC. (hereinafter, "MERS"), by and through their attorneys, Wolfe &
33 Wyman LLP, filed a Motion to Dismiss Plaintiffs' Complaint pursuant to F.R.C.P. Rule 12(b)(6) on
34 May 11, 2011 (Docket No. 11). Pursuant to Local Rule 7-2(b), any Response and/or Opposition to
35 such Motion must be filed with the Court and served within fourteen (14) days after service of the
36 Motion. Consequently, Plaintiffs were required to file a Response and/or Opposition no later than
37 May 30, 2011. No TIMELY Response was filed.

38 The Court having considered the moving papers, its own files, and good cause appearing, rules as



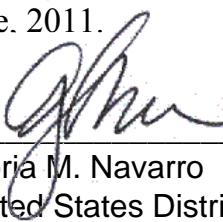
1 follows:

2 1. Pursuant to Local Rule 7-2(b), any Response and/or Opposition to Defendants' Motion for
 3 Summary Judgment was required to be filed with the Court and served within fourteen days after service
 4 of the motion. No timely Response and/or Opposition had been filed by the Plaintiffs regarding this
 5 matter. Pursuant to Local Rule 7-2(d), the failure of an opposing party to file Points and Authorities in
 6 response to any motion shall constitute consent to the granting of the motion.

7 2. The Court may grant the Motion to Dismiss for failure to follow local rules. *Ghazali v. Moran*,
 8 46 F.3d 52 (9th Cir. 1995). Before dismissing the action, the district court is required to weigh several
 9 factors: (1) the public's interest in expeditious resolution of litigation; (2) the court's need to manage its
 10 docket; (3) the risk of prejudice to the defendants; (4) the public policy favoring disposition of cases on
 11 their merits; and (5) the availability of less drastic sanctions. The Court has considered these factors and
 12 finds that Plaintiffs have received notice and have been given ample time to respond.

13 IT IS THEREFORE ORDERED, that based on the foregoing, the Motion to Dismiss is
 14 GRANTED and Defendants, CMI and MERS, are hereby dismissed without prejudice.

15 **IT IS SO ORDERED** this 10th day of June, 2011.



16
 17 Respectfully submitted,
 18 **WOLFE & WYMAN LLP**
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 21 By: /s/ Sarah A. Gaskill
 22 COLT B. DODRILL, ESQ.
 23 Nevada Bar No. 9000
 24 SARAH A. GASKILL, ESQ.
 25 Nevada Bar No. 8461
 26 980 Kelly Johnson Drive, Suite 140
 27 Las Vegas, NV 89119
 28 Phone (702) 476-0100
 Fax (702) 476-0101
 29
 30 Attorneys for Defendants,
 31 **CITIMORTGAGE, INC. and MORTGAGE**
 32 **ELECTRONIC REGISTRATION SYSTEMS,**
 33 **INC.**

